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National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21*

Tuvalu

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1. The government of Tuvalu submitted its first national Universal Periodic Review report to the Human Rights Council in 2008 and its second national report in 2013. Tuvalu has through its limited resources both financially and technically continued to work to implement the agreed recommendations and commitments through its government agencies, official institutions, and civil society organisations. Tuvalu continues to face challenges in the implementation of the agreed recommendations and importantly with its national human rights and national development priorities.

2. The Office of the Attorney General (OAG) of the Office Prime Ministers Office (OPM) is responsible for the national report and more importantly in coordinating the agreed recommendations for implementation by the Human Rights Council. Furthermore, the Office of the Attorney General, Ministry of Health, Ministry of Education, Youth and Sports, Ministry of Home Affairs and Rural Development, Ministry of Finance and Economic Development, Department of Climate Change Policy and Disaster Unit was tasked by cabinet to coordinate and initiate the writing of the third national report.[1] This report responds to the recommendations received from the second national report submitted to the Human Rights Council in 2013. It articulates and narrates what has been achieved regarding the strengthening and protection of human rights and more importantly outlines the ongoing challenges faced in the implementation of the recommendations.

I. Methodology and process for preparing the report

A. Methodology for preparing the report

3. The Office of the Attorney General as lead agency for the Universal Periodic Review Report coordinated and facilitated a one day consultation for the UPR Working Group on the 19 February 2018 to discuss strategies on how best to compile the report and to respond to the recommendations received from the second round of reporting. The one day consultation allowed government stakeholders to reflect on the process, modalities and recommendations from the second national report and provided the URP Working Group with the opportunity to provide an update on the status of the implementation of the recommendations. The UPR matrix contained the list of recommendations received from the Human Rights Council, ministry and or government department responsible for the recommendation, and implementation progress on the recommendation and further actions that needed to be undertaken to fully realise the recommendation. The UPR matrix was used as the main source for preparing the third national report. Additionally, one on one meetings was also undertaken to further source information as needed for the national report.

B. Process for preparing the report

4. The Office of the Attorney General through the Senior Crown Counsel was responsible for collating the information received from the government stakeholders and finalising the national report. The third national report was circulated to members of the UPR Working Group for their comments. Additional information received was added to the national report.

II. Developments since the previous review, background of the State under review and framework, particularly normative and institutional framework, for the promotion and protection of human rights: constitution, legislation, policy measures, national jurisprudence, human rights, infrastructure including national human rights institution and scope of international obligations identified in the "basis of review" in resolution 5/1

A. National laws and legislation

5. Tuvalu in its attempt to harmonise its domestic legislation with the its international obligations[2] have passed the following amendments and legislation in Parliament:

(a) Island Courts (Amendment) Act 2017;

(b) Tobacco Control (Amendment) Act 2017;

(c) Alcoholic Drinks Amendment) Act 2017;

(d) Leadership Code (Amendment) Act 2017;

(e) Marriage (Amendment) Act 2017;

(f) Family Protection and Domestic Violence Act 2014;

(g) Family Protection and Domestic Violence (Amendment) Act 2016;

(h) National Human Rights Institution Act 2017; and

(i) Labour and Employment Relations Act 2017.

6. The OAG in 2017 in collaboration with UNICEF Pacific Regional Office have started work on the Child Protection and Welfare Bill 2017;[3] and Policy for the Protection all children in Educational Institutions in Tuvalu.[4] Additionally, consequential amendments to other laws have been made and is in compliance with Tuvalu's international norms and standards.[5] They are:

(a) Section 39 of the Penal Code [Cap 10.20];[6]

(b) Prisons Act [Cap 20.28];[7]

(c) Education (Compulsory Education) Order 1984 [Cap 30.05.4];[8] and

(d) Gaming and Lotteries Act [Cap 54.10].[9]

7. Tuvalu is currently undergoing a constitutional review and significant to the proposed Constitutional changes is the inclusion of *gender* and *disability* as a non-discrimination ground. The Government of Tuvalu notes that adding gender and disability to the non-discrimination clause of section 27 is consistent with Tuvalu's international obligations under the Convention on the Elimination of all forms of Discrimination against Women and the Convention on the Rights of Persons with Disabilities. Additionally, the Gender Affairs Department have provided a strategy paper for the Constitutional Review Committee on changes to be made in order to be in compliance with CEDAW. The Government of Tuvalu recognises that while sex is already a basis for non-discrimination under section 11, there is growing international recognition that gender is distinct from sex, and the protections of section 27 are arguably broader.

B. National measures and policies

8. Tuvalu informs the Human Rights Council that in adhering to its international obligations and commitment cabinet has approved twelve (12) national measures that aim at promoting and protecting human rights nationally and more importantly ensuring that the

goals and aspirations articulated under international norms and standards are reflected in national laws, policies, regulations and practices. The national measures indicates Tuvalu's commitment by cabinet that human rights is a priority and a part of its national sustainable development plans. The cabinet endorsed national measures are: (a) Tuvalu's Universal Periodic Review; (b) National Human Rights Institution of Tuvalu Bill 2017 and Leadership Amendment Bill 2017;[10] (c) Progressive Update on Human Rights Treaty Reports and Legislative Reviews Child Protection;[11] (d) Report of the Scoping Study Team on the Feasibility and Options for the Establishment of a National Human Rights Institution;[12] (e) National Action Plan on Human Rights of Tuvalu 2016-2020;[13] (f) National Advisory Committee for Children and Technical Working Group Terms of Reference;[14] (g) Committee on the Rights of the Child – Seeking Tuvalu's support 2019-2022;[15] (h) Human Rights for Good Governance and Development in Tuvalu;[16] (i) Motion on Denarau 2015 Declaration on Human Rights and Good Governance;[17] (j) Establishment of the Disaster Relief Coordination Unit;[18] (k) Establishment of the National Advisory Council on Climate Change (NACCC);[19] (l) Setting up of a Policy Co-ordination Unit on Climate change and Disaster under the Office of the Prime Minister.[20]

9. The Policy for the Protection of Children in all Educational Institutions in Tuvalu specifically applies to students under the age of 18 years. The policy provides a framework for the protection, identification, managing and reporting incidents of child abuse in schools and educational institutions whenever school activities and programs are conducted or provided. The Policy states that: (a) all children in Tuvaluan schools are entitled to enjoy the rights and protections afforded to them under the UN Convention on the Rights of the Child; (b) all staff employed in Tuvaluan schools are responsible for the care, safety and protection of children in the school or educational institution, (c) this responsibility extends to the identification and timely response to concerns regarding the possible sexual, physical, psychological and emotional abuse or neglect of a child, (d) the Department of Education has a policy of zero tolerance in relation to the abuse, neglect and exploitation of children.

10. The Tuvalu National Gender Policy 2014-2016 policy strategic approach aims at achieving five priority outcomes: (a) increase capacity within all sectors of Government to address key issues of concern in achieving gender equality and women's empowerment; (b) reflect Government's commitment to gender equality and women's empowerment in legislation and in sector policies affecting Government and civil society; (c) create an enabling environment for the full participation of women in economic development; (d) measures to ensure access by women and men to participation in decision-making as means to enhance leadership and governance at all levels; (e) and eliminating all forms of violence against women.

11. The Draft Tuvalu National Policy on Disability sets out a comprehensive framework to address the needs and rights of persons with disabilities. It aims to improve the quality of their lives and their full and equal participation as empowered citizens. This is a reflection of Tuvalu's vision of a disability-inclusive and barrier-free society where persons with disabilities are able to enjoy all human rights on an equal basis with others, and to live with dignity. This also reflects the key principles and core values of the CRPD, in particular the: (a) principles of non-discrimination; (b) respect for inherent dignity; and (c) full and effective participation and inclusion.

12. The Tuvalu National Youth Policy illustrates the commitment and recognition of the Government and the society as a whole to empower its youth, regardless of race, religion, gender and disabilities. The commitment is to: (a) provide every opportunity to develop the personal, physical, social, economic, mental and spiritual potential of youth; (b) to encourage them to positively participate in the nation building and to shape their future. It details information on the various issues affecting youth and outlines broad strategies to address such issues.

13. The Sustainable and Integrated Water and Sanitation Policy 2012-2021 is a response to national water crises, and directly aims to ensure that the government is prepared for future challenges. The purpose of the WSP is to ensure that the people of Tuvalu have continued access to safe, reliable, affordable and sustainable water and sanitation facilities. The policy supports Tuvalu's key planning document, Te Kakeega III (National Strategy

for Sustainable Development), as well as key Pacific Regional Framework such as the Pacific Regional Action on Sustainable Water Management.

14. The Tuvalu National Disability Coordinating Committee commits to advancing human rights generally in Tuvalu but, more specifically, it was established to formulate and develop meaningful national decisions and actions that addresses issues concerning persons with disabilities in Tuvalu. The objective of the Tuvalu National Disability Coordinating Committee is to ensure the facilitation of the implementation of the CRPD by setting up and developing key mechanisms that would in turn translate into relevant and progressive actions to realise the human rights of persons with disabilities in Tuvalu. The TNDCC is the national focal point for disability in Tuvalu. The Department of Community Affairs is the Government's Focal Point for Disability.

15. The National Advisory Committee on Children's Rights is dedicated to the fulfilment of the government's commitment under the Convention on the Rights of the Child. The National Advisory Committee on Children's Rights is established to: (a) coordinate the drafting of the Government's report on the CRC to the Committee on the Rights of the Child (CRC Committee); (b) undertakes national consultations with relevant stakeholders on draft CRC reports; ensure that all Government CRC reports are submitted and endorsed by Cabinet; (c) ensure the official submission of all Government CRC reports to the CRC Secretariat in Geneva; (d) coordinate the Government's response to the list of issues and any other communication with the Committee on the Rights of the Child and other international human rights mechanisms; (e) facilitate the preparation of the Government delegation for constructive dialogues with the CRC Committee, including seeking technical support from development partners for mock sessions and other support needed; (f) coordinate and monitor national implementation and follow up of the concluding observations/comments and recommendations from the CRC Committee; (g) coordinate national awareness on the CRC and child rights in general; (h) provide advice to Cabinet/Parliament on issues relating to children and to carry out other duties as is necessary for CRC reporting and implementation.

16. The Ombudsman Office is legally established under the Leadership Code Act 2014. The Ombudsman has the following functions: (a) to enquire into any complaints or allegation of misconduct on the part of any leader; (b) to enquire into any defects in administrative practice appearing from any matter being investigated; (c) to enquire into any case of an alleged or suspected discriminatory practice by a leader; (d) to give prior advice on potential breaches of this Code; (e) to investigate and report on any complaints of any alleged breaches of this Code.[21] Additionally, the Ombudsman shall comply with directions given or made under the Code, but otherwise is not subject to direction or control by any other person or authority.

17. It is also important to note that in ensuring that its international human rights commitments are implemented nationally, government continues to provide financial assistance to key government ministries and departments to assist in the fulfilment of national international human rights obligations.[22]

C. Official authorities and government organisations concerned with human rights

18. There are mechanisms in place that provides services through current and existing government initiatives aimed at promoting and protecting human rights. The existing national mechanisms are:

- Office of the Attorney General;[23]
- Ministry of Home Affairs and Rural Development;[24]
- Ministry of Education, Youth and Sports;[25]
- Gender Affairs Department;[26]
- Department for Youth;[27]

- Tuvalu Police Force;[28]
- Office of the Peoples Lawyer.[29]

III. Promotion and protection of human rights on the ground: implementation of international human rights obligations identified in the "basis of review", national legislation and voluntary commitments, national human rights institutions activities, public awareness of human rights, cooperation with human rights mechanisms

19. The Government of Tuvalu has in place the Tuvalu Human Rights National Action Plan 2016-2020. This National Action Plan (NAP) captures Tuvalu's existing commitments under human rights treaties to which it is a state party. It also captures Tuvalu's commitments under the Universal Periodic Review (UPR), the Sustainable Development Goals (SDGs) and the *Te Kakeega III- 2016-2020* (TK III). NAP strives to consolidate the government's human rights commitments in ensuring a systematic and coordinated approach to delivery of the government's commitment and achieving other desired development outcomes in order to strengthen the realisation of human rights in Tuvalu.

20. Tuvalu's development priorities are found in the *Te Kakeega III*, which is the blueprint for the government's action on improving the quality of life of the people of Tuvalu. While the *Te Kakeega III* is written in terms of development, most of the aspiration within this key government document are linked to human rights, including the rights to education, health, life, housing, employment, voting and participation on in both national and local government. In order to fulfil these development goals, the government is also realising fundamental human rights that emanate from its obligations under international human rights instruments such as CEDAW, CRC, CRPD and the UPR process.

21. In 2017, the government of Australia through the Pacific Women Shaping Pacific Development (*Pacific Women*) program provided funding to the government to undertake the *Tuvalu Study on Peoples with Disabilities*. The Government of Tuvalu through the Ministry of Home Affairs and the Gender Affairs Department provided essential support to the Study throughout its duration. The Board, staff, members and volunteers of the Fusi Alofa Association (FAA), the disabled people's organisation in Tuvalu, played a key role in the Study from its initial inception. The study on disability, humanity and dignity are particularly pertinent concepts raised under the National Action Plan on Human Rights and the Convention on the Rights of Persons with Disabilities.

IV. Action taken regarding recommendations arising from the second UPR round (2013)

A. Treaty Ratification[30]

22. The Convention on the Rights of the Child (CRC) and the Convention on the Elimination of all forms of Discrimination against Women (CEDAW) continues to be institutionalised especially in national laws and policies and is now evident in the passing of the Family Protection and Domestic Violence Act 2014, National Human Rights Institution Act 2017, Gender Policy, Draft Tuvalu National Policy on Disability, Draft Housing Policy. This is also evident in the amendments made to existing legislations.[31]

23. Additionally, the Government of Tuvalu has completed and submitted its combined 2nd, 3rd, 4th and 5th Convention on the Rights of the Child National Report. Furthermore, the Government of Tuvalu informs the Council that it has completed and submitted its Initial Report on the Convention on the Rights of Persons with Disabilities. Both reports were submitted in March 2018.

24. The Office of the Attorney General has benefited from the Office of the High Commissioner for Human Rights (OHCHR) human rights training especially on *Human Rights Indicators (2017), Social and Cultural Rights and Human Rights indicators (2017); Training on the Convention on the Rights of Persons with Disabilities (2016)* and *Benefits of and Challenges to the Ratification and Implementation of UNCAT (2016).*

25. The government of Tuvalu will progressively realise the ratification of the *Convention against Torture, Cruel, Inhuman and Degrading Treatment CERD – Convention on the Elimination of all forms of Racial Discrimination, Convention on the Rights of Migrant Workers and their Families and CED – Convention against Enforced Disappearances.*

26. The government of Tuvalu will be participating in its first COSP (Council of State Parties) meeting in June 2018. The government of Tuvalu will be represented by officials from the Ministry of Home Affairs and Rural Development and the Office of the Attorney General. In addition, the Government of Tuvalu is also looking forward to its constructive dialogue with the CRC Committee and the CRPD Committee on both the national reports submitted.

27. The government of Tuvalu informs the Human Rights Council that Cabinet in its *Special Meeting 13/12 on the 15 March 2012*[32] endorsed the proposal to accede to the Rome Statute which establishes and governs the International Criminal Court (ICC). It is envisaged that the accession to the Rome Statute will be progressively realised before the next reporting cycle. In addition, the Agreement on the Privileges and Immunities of the ICC will be progressively realised after national formal process have been adhered to.

28. Further, Cabinet in its Special Meeting in 2013 agreed to the ratification of the CRC Optional Protocols. This will be progressively realised and reported in the next UPR reporting cycle.

29. The Office of the People's Lawyer (OPL) have forged bilateral agreement with Fiji Legal Aid Commission for provision of internship and training programs for the staff of the OPL. To date the partnership has seen two OPL staff undergo prosecutorial and legal defence training with the Fiji Legal Aid Commission.

B. Domesticating – Amending National Laws[33]

30. The Government of Tuvalu has incorporated provisions of the CRC and CEDAW in national laws and policies namely the Family Protection and Domestic Violence Act 2014, National Human Rights Institution Act 2017, and Labour and Employment Relations Act 2017.

31. Tuvalu has also amended the Island Courts (Amendment) Act 2017, Tobacco Control (Amendment) Act 2017, Alcoholics Drinks (Amendment) Act 2017, The Leadership (Amendment) Code 2017, Marriage (Amendment) Act 2017 to ensure that it is consistent with its obligations under the Convention on the Rights of the Child.

32. The Government of Tuvalu is in the process of holding second round of consultation on the Child Protection and Welfare Bill 2017. The CP&W Bill 2017 is the first law in Tuvalu to make comprehensive provision for issues related to the rights, protection and welfare of children in accordance with the principles and provisions of the Convention on the Rights of the Child. The proposed law will empower the government to take action to ensure that children are protected whenever necessary and promote the welfare of all children in Tuvalu.[34]

33. In keeping with its national commitment to ensuring the recognition, promotion and protection of the rights of persons with disabilities and the vulnerable members of Tuvaluan society, this national report notes that there exist a Financial Scheme to provide financial support to persons living with disabilities. Further, the Department of Home Affairs and Rural Development in partnership with Pacific Women Shaping Pacific Development have undertaken a study on disability in Tuvalu.

34. The Government of Tuvalu informs the Human Rights Council that corporal punishment is now abolished.

C. Establish a National Human Rights Institution[15]

35. Cabinet Meeting 10/17 on the 8th March 2017 endorsed tabling in Parliament the National Human Rights Institution Bill 2017 and the Leadership (Amendment) Code 2017. The NHRI Act 2017 was passed during the second reading of the third sitting of Parliament in December 2017. The National Human Rights Institution Act 2017 aims at providing a relevant mechanism to ensure the full promotion and protection of fundamental freedom. The Act aims at allowing access to a government system that will address abuse of human rights and fundamental freedoms.[16]

D. Youth empowerment[17]

36. The National Youth Policy has undergone a review and is now in its implementation stage. The proposed changes to the National Youth Policy has been circulated nationally amongst relevant stakeholders.

E. Capacity building[18]

37. UNICEF Pacific Regional Office have conducted training for the Tuvalu Police Force. The Police Service continues to conduct training on its subordinate legislation and Act for police officers as part of the organisations work plan and internal capacity building. UNICEF Pacific Regional Office have conducted training awareness on child protection system with the Tuvalu Police Force. The aim of the training is to increase awareness and relevance of child protection system and procedures when dealing with children who come into contact with the law.

38. The Office of the Attorney General in partnership with the Ministry of Education have conducted awareness programs in Funafuti and the outer islands on the proposed Child Protection Welfare Bill 2017 and the Policy for the Protection of all Children in Educational Institutions in Tuvalu. The aim of the nation-wide consultation was to seek national endorsement of both documents and to also raise awareness amongst government stakeholders based in the outer islands.

39. Furthermore, the Office of the Attorney General have facilitated sessions on the Child Protection Welfare Bill 2017 and the Policy for the Protection of all Children in Educational Institutions for the Office of the Peoples Lawyer, Crown Counsels, Judiciary and Ombudsman Office. The purpose of the in house session was to allow the legal fraternity to discuss, gather views on the proposed Bill and to increase their knowledge on the Bill and Policy but more importantly understand the legal process and procedure that will need to be followed.

40. The Office of the Attorney General has benefited from OHCHR human rights training especially on *Human Rights Indicators (2017)*, *Social and Cultural Rights and Human Rights indicators (2017)*; *Training on the Convention on the Rights of Persons with Disabilities (2016)* and *Benefits of and Challenges to the Ratification and Implementation of UNCAT (2016)*. The Government of Tuvalu will continue to seek the assistance of the OHCHR towards meaningful consideration of the eventual participation to the core international instruments on human rights.

F. Awareness raising[19]

41. The Office of the Attorney General continues to conduct awareness programs on human rights in Tuvalu. Radio programs continues to be facilitated for the benefit of the outer island communities. Important to note is that outer island consultation on human rights, children's rights, gender, women's rights, rights of persons with disabilities,

legislation and policies relating to thematic issues continues to be facilitated by relevant government departments.

42. The government of Tuvalu continues to support international *Human Rights Day, World Disability Day and the White Ribbon Campaign*. The Government of Tuvalu provides financial support to the relevant government ministry and department to celebrate and raise awareness on issues relevant to their work and mandates namely ending violence against women, rights of persons with disabilities etc. The government of Tuvalu celebrates and supports the White Ribbon Day awareness and campaign that is coordinated and conducted by the Tuvalu Police Service on a yearly basis. The White Ribbon day awareness and campaign targets all parts of the community including schools and other educational institutions. The White Ribbon awareness and campaign also targets community leaders, church leaders, youths, women, persons with disabilities and relevant government Ministries and Departments. The Gender Affairs Department of the Government of Tuvalu continues to conduct awareness raising campaigns with major stakeholders in the country to advancing gender equality.

43. The Department of Home Affairs and Rural Development in partnership with the Office of the Attorney General and Fusi Alofa have raised awareness on the Convention on the Rights of Persons with Disabilities including the development of the Draft Tuvalu National Policy on Disability and the finalisation of the Initial report on the Convention on the Rights of Persons with Disabilities in Funafuti and the outer islands. The consultation included representations from parents, teachers, students, NDPO, Youth, Faifeau's,[40] Kaupule,[41] Island Magistrates, Police and Prison officers, Medical staff and People's Lawyer.

44. Additionally, the Education Department have started coordinating and facilitating training awareness programs for senior staff members on the Convention on the Rights of the Child. The purpose of the training and awareness programs is to equip staff members with information and knowledge and to also inform them on how to apply and implement the principles of the Convention on the Right of the Child in their work and activities.

45. The Education Department is now working closely with the SPC/Regional Rights Resource Team to integrate Social Citizens into the curriculum. This is inline with the outcomes of the promotion of social citizens through education consultation. To date, copies of the curriculum for Health Science, Social Science, science and climate Change education have been sent to the Pacific Community/Regional Rights Resource Team (RRRT) for review. This initiative will commence in 2018.

G. Special procedures[42]

46. The Government of Tuvalu wishes to inform the Human Rights Council that it has extended a standing invitation to all thematic special procedures on the 26th April 2013 in principle. Government protocol dictates that the Department Coordinating Committee will approve the formal process before subsequent approval by Cabinet prior to formalising the invitation of the mandate holder.

H. Protection of vulnerable groups[43]

47. To date, the government of Tuvalu has yet to ratify the Optional Protocol to the Convention on the Rights of Persons with Disabilities. It has not made any reservations on the Optional Protocol to the Convention on the Rights of Persons with Disabilities. It is the intention of the Office of the Attorney General and the Ministry of Home Affairs that further consultation is needed to fully discuss the ratification of the OP CRPD before making a formal commitment. As formal process dictates, cabinet will have to give formal endorsement before making the commitment to be bound by the Optional protocol. This report informs the committee that this will be progressively realised.

48. Some notable assistance provided and available for persons with disabilities include: *(a) donor assistance from UNICEF to Fusialofa – including scholarships, (b) APTC training on sign language and (c) assistance by the judiciary in relation to cases involving persons with disabilities.*

49. Further, the *Tuvalu Gender Policy 2014-2016* discusses women with disabilities in various key thematic areas namely: (a) specific situations of rural women and girls with disabilities are addressed through all legislation, adopt measures to facilitate access to employment for women with disabilities, (b) create a gender sensitive environment in the Falekaupule, Kaupule and Parliament to enable women participation at all levels, including for women with disabilities, recognition of gender based violence experienced by women with disabilities and adoption of adequate measures to prevent it and (c) protect women, strengthen capacity of police officers and health care service providers to respond to victims with a gender sensitive approach including women with disabilities."

50. The *Family Protection Domestic Violence Act 2014* has been passed and commenced as an Act of Parliament in December 2014. The Family Protection and Domestic Violence Act 2014 provides for a guarantee for women and children including those living with disabilities protection from all forms of violence namely sexual, economic, emotional and physical. The Family Protection and Domestic Violence Act 2014 also imposes mandatory responsibilities on the part of service providers to expediently attend to cases of violence in the home. In addition, the government of Tuvalu through cabinet on the 22nd March, 2017 endorsed the establishment of the Family Protection Fund subject to operating under the Tuvalu Development Fund.[44] Significant to the establishment of the fund is the opportunity for child survivors of domestic violence and access for mothers in domestic violence to access as per the criteria and developed operational policy.

51. Furthermore, the Office of the Attorney General in partnership with the Pacific Community/RRRT is currently undertaking a *Family Protection and Domestic Violence Baseline*. The baseline is aimed at identifying and improving existing mechanisms that can be used to promote the current work on eliminating violence against women in Tuvalu. It is envisaged that the findings of the baseline will assist in the strengthening of ongoing work of the Tuvalu Police Force and relevant government and NGO stakeholders in eliminating violence against women in Tuvalu.

52. The Police Force continues to conduct awareness and outreach program to communities including strengthening the process of investigation on violence against women. The Tuvalu Police Force in ensuring that accountability for perpetrators for violence and increasing the victims access to justice, ensures that the rights of victims are given during investigations and ensures that only the Senior Magistrates attends to the case. Important to note is that rights of the perpetrators[45] is also provided during the course of the investigations. Also, as part of its internal strategy to reduce domestic violence, the Tuvalu Police Force has in place: (a) no drop policy; (b) issuing of police orders, and (c) arrest of offenders.

53. The Government of Tuvalu will in the second quarter of 2018 undertake a legislative compliance review with the aim of aligning national laws and policies with the Convention on the Rights of Persons with Disabilities. The legislative compliance review will allow relevant government ministries and or departments to make necessary changes to laws and policies relating to persons with disabilities. The Ministry of Home Affairs and Rural Development in partnership with the Office of the Attorney General and the Pacific Island Forum Secretariat in partnership with UNESCAP will undertake this initiative in the first quarter of 2018.

54. Part 5 of the *Labour and Employment Relations Act 2017*[46] provides for equal employment opportunities. Section 50 *(Prohibition of discrimination)* provides for non-discriminatory section in the area of employment. Section 50 of the Act states that "*an employer shall not discriminate, directly or indirectly, against any employee or prospective employee in respect of recruitment, training, promotion, against any employee or prospective employee to recruitment, training, promotion, terms and conditions of employment, termination of employment, or other matters arising out of employment relationship, for a prohibited reason.* In addition, sub section 2 states that, a prohibited

reasons is a reason that is affected by any of the following attributes of the employee or prospective employee, whether actual or perceived: *ethnic origin, race, colour, national extraction, social origin, social class or economic status, or gender, sex, pregnancy, marital status, sexual orientation or family responsibilities, or age, state of health, HIV/AIDS status, or disability, or religion or political opinion, or trade union membership or activity, or involvement in any dispute, an investigation or legal proceedings*

55. As of July 2017 women represent 45% of the entire government workforce with 47.5% (46) of level 1–4[47] officers. The Government of Tuvalu ensures that gender equity is applied across all process and procedures internally and gender inclusiveness in meetings, committees and forums. The GoT recognises the cross cutting nature of gender issues and therefore takes into account the integration of gender perspective in all government activities.

56. Tuvalu General Administrative Order Cap 4. 24.1 states that all female officers, regardless of status, shall be granted maternity leave in accordance with the provisions of Labour and Employment Relations Act 2017. Section 30 of the Act[48] states that a female employee, upon production of a medical certificate from a medical practitioner confirming the expected date of delivery of a child shall be entitled to leave from work for 12 weeks to be taken around the time of the birth of that child and whilst absent from work shall be entitled to be paid by her employer 100% of the wage or salary she would have earned had she not been subagent from work. Additionally, the Act[49] further allows female employee who is nursing a child under 12 months of age, one hour twice a day as nursing breaks and hours will be counted as hours worked for the purposes of calculating wages.

57. The government of Tuvalu informs the Council that under *Section 29 of the Education Act* no teacher, other than a head-teacher, shall administer corporal punishment to any pupil. Additionally, if a head-teacher administers corporal punishment to any pupil, he shall record details of the punishment administered and the offence for which the corporal punishment was administered in a book to be kept at the school for that purpose. The *Education (Amendment) Act 2017* provides more protection for children within schools. *Section 29 of the Education* has been repealed in its entirety as it contradicts the principles enshrined in the Convention on the Rights of the Child in protecting and respecting the rights and dignity of children. The amendment prohibits corporal punishment in any form and manifestation.

58. The *Island Court (Amendment) Act No 5 of 2017* provide protection for children within the island court setting, especially with regards the treatment of young offenders. The amendment abolishes physical punishment as a form of criminal sentence by the Island Courts.

59. Awareness campaigns have been carried out in schools in Vaitupu on Primary and Secondary School on bullying. The Gender Affairs Division have conducted awareness after consultations with Ministry of Education Youth and Sports on the effects of traditional roles and how they are seen as root causes for school bullying. Additionally, the Tuvalu Police Force during *White Ribbon* day conducted awareness program on all forms of violence (particularly domestic and child violence).[50]

I. Good governance/election[51]

60. The Office of the Prime Minister has published a notice for a by-election for the Nukufetau Constituency and was completed in 2013. This recommendation has been fulfilled by the government of Tuvalu.

J. Food security[52]

61. As a member of the international community, Tuvalu has committed to realising the SDGs.[53] The SDGs complement Tuvalu's ongoing and existing development priorities in the TK III as well as other international human rights commitments. However, as envisaged by the United Nations, the goals are, over a 15-year period, envisioned to *end poverty,*

protect the planet, and ensure prosperity for all, while welcoming the participants on of all people in a country. Tuvalu will continue to work with development partners and donors to realise progress around some of these crucial areas especially on food security.

62. The TK III also draws from the Small Island Developing States (SIDS) S.A.M.O.A Pathway. This demonstrates the correlation between the existing commitments of Pacific governments to SDGs and the commitment of SIDS to the 15 priority areas that are within the SIDS strategy, which are drawn from the Barbados Programme of Ac on and the Mauritius Strategy. These 15 priority areas include sustained and sustainable, inclusive and equitable economic growth with decent work for all; climate change, sustainable energy, disaster risk reduction, oceans and seas, food security and nutrition; water and sanitation; sustainable transportation; sustainable production and consumption; management of chemicals and waste; health and NCDs; gender equality and women's empowerment; social development; biodiversity and invasive alien species.

63. Currently, the Government of Tuvalu currently has four food security projects. The food security projects is funded by the Secretariat of the Pacific Community. The food security projects are implemented in Nanumanga, Nui, Funafuti and Vaitupu. The Department for Agriculture also provides seedlings to farmers in the mentioned islands to help them in their *pulaka* farm endeavours.

K. Water and sanitation[54]

64. The Sustainable and Integrated Water and Sanitation Policy complements other national frameworks, including Te Kaniva (National Climate Change Policy), the Strategic National Action Plan (SNAP), National Biodiversity Strategy and Action Plan (NBSAP), the National Action Plan to combat Land Degradation and Drought (NAP), and the National Adaptation Program of Action (NAPA). It is intended that measures for the implementation of the policy will be further progressed through the finalisation of Tuvalu's national IWRM Plan.

65. The WSP adopts the following guiding principles: (a) access to safe drinking water and sanitation is a fundamental human right. Access to facilities should not be confined to certain sectors of the community, and the WSP aims to ensure that the daily needs of all Tuvaluan's, including the most vulnerable, are met; (b) water is everyone's business, and all Tuvaluan's have a role in the management of water and sanitation. The effective implementation of the WSP will depend on the success of integration, coordination and collaboration between responsible ministries, departments, Kaupule, non-government organisations, the private sector, civil society and international partners. The WSP encourages the effective participation of community stakeholders in planning, setting of rules and standards, implementation, monitoring and evaluation. The WSP also recognises that women have a key role in the management of water; (c) water and sanitation services in Tuvalu should, over the longer term, operate on a sustainable basis. The WSP acknowledges the importance of ongoing partner support to help address some of Tuvalu's more serious water and sanitation challenges, but also recognises that, over time, a more sustainable footing is needed for our water and sanitation services; (d) managing risk is more effective than responding to consequences. The WSP recognises that managing the water-related impacts of climate variability and climate change requires a risk-based approach, and adaptation to these impacts requires integration of effective risk reduction strategies across all sectors; and (e) effective water management is an important national response to the impacts of climate change.

66. In addition, the goals of the Sustainable and Integrated Water and Sanitation Policy 2012-2021 is to: (a) to provide a safe, reliable, affordable and sustainable water supply; (b) to manage and conserve scarce water supplies; (c) to establish and maintain effective early warning and response systems; (d) to enable effective, equitable and integrated governance of water and sanitation; (e) to increase community awareness and participation in the management of water and sanitation; (f) to improve access to reliable, affordable and environmental sustainable technologies; and (g) to improve the affordability of water and sanitation services and increase access to sustainable sources of finance.

L. Access to education and gender in education

67. The implementation of the Tuvalu Education Sector Plan III 2016-2020 (TESP III) includes all sectors of the Education Department from ECCE, Primary and Secondary level as well as TVSD. The department has also developed overarching work plan by mapping out the original sector plan to cover a period of 5 years, and identifying the relevant units/sectors to work on achieving the desired deliverables. In addition, officers who visit schools during information roll out need to follow up on schools progress of the work on the sector plan on a monthly basis.

68. Education in Tuvalu is free for all under the free education initiative that was approved by Cabinet in 2016. As such all students regardless of gender, attend school. The Department of Education, through the head teachers and school committees of all school retain attendance of children on a particular day, it is the responsibility of the school of the school committee to follow it up with parents of whose children do not attend class. This initiative and practice has deterred students from missing class. Records of students attendance to classes are communicated to the department monthly where they are stored under TEMIS.

M. Persons with disabilities implementation[55]

69. The Social Development Policy Project – Social Data report 2015 notes that there is no clear definition of persons with disabilities. Additionally, the Government of Tuvalu *Support Scheme for the Most Vulnerable Persons with Disability* provides for a definition of disability that is in line with the Convention. In addition, the Tuvalu Education Strategic Plan 2011-2015 is aimed at implementing a policy for Inclusive Education for All and to explicitly define a person with disability, professional development to enable teachers to identity and support students with special needs, provide enabling learning environments, incorporate regional strategy on disability and to explore cost effective possibilities of distance and flexible learning system to reach out to remote schools.

70. There is no existing substance in law and or policy that provide for provisions of 'reasonable accommodation, however, national plans are on the way within the education department and other stakeholders to implement the principle with available resources and support of relevant stakeholders. The education department with its available resources have practices in place to accommodate learning for persons with disabilities.[56]

71. Fusi Alofa has a qualified sign language teachers to assist students with disabilities. Sufficient to note that ramps are available for reasonable access to the Fusi Alofa school, office and facilities. The Education Ministry also provides funding to Fusi Alofa to assist with the educational needs of children with special needs. This mechanism was implemented so that children with special needs are not only given adequate recognition but to also enjoy the right to education.

72. Additionally, section 14 of the Falekaupule Act – *Qualification of voters* states that every person who — (a) has attained the age of 18; (b) is a resident in the Falekaupule area; and (c) has paid rates to the Kaupule or has been exempted under section 86(2) (1) or 88, is entitled to be registered as a voter and, when so registered, to vote at the election of a member of the Kaupule in that area. This is inclusive of persons with disabilities who are eligible to vote. However, s15 states that no person who is certified to be insane or otherwise adjudged to be of unsound mind under any law for the time being in force in Tuvalu shall be entitled to vote in an election of a member of a Kaupule.[57]

73. The Family Protection and Domestic Violence Act 2014 recognises that women with disabilities also encounter violence in the home. The Family Protection and Domestic Violence Act stipulates that women living with disabilities should be afforded the same protection as any other women and or victims of violence. It calls on the relevant authorities to provide urgent and timely assistance to women living with disabilities who are victims of violence.

74. In addition to the above, the government of Tuvalu currently have in place a Support Scheme for the Most Vulnerable Persons with Disability. The support scheme recognises that persons with disabilities live in conditions of poverty, and, in this regard recognises the critical need to address the negative impact of poverty on persons with disabilities in Tuvalu and to provide financial assistance to citizens of Tuvalu who are eligible. The beneficiary under the scheme is entitled to receive a payment of AUD$70.00 per month in accordance with the provisions of the scheme.

75. The Tuvalu National Disability Coordinating Committee's primary role is to assist the Government and People of Tuvalu in coordinating and monitoring the implementation of Tuvalu's obligations under the Convention.

76. The Ministry of Education currently provides Special School (MoE) Grant for Fusi Alofa. The grant provided has allowed the Fusi Alofa to provide educational services for children with special needs in Tuvalu. The grant pays for the teachers that are currently managing the school for children with special needs. In addition to the above, the 2012 Census for the first time included persons with disabilities in its interviews and overall scope of work. The 2007 Demographic & Health Survey included indicators into domestic violence on women and children. Also, important to note is that persons with disabilities particularly the mentally incapacitated can travel to any of the outer island without paying for boat fares or accompanying costs.

77. Additionally, the Public Health Unit and Non-Communicable Disease Committee have facilitated awareness and training programmes for relevant stakeholders including the National Disability Organisation on non-communicable disease and better healthy lifestyle. The Government of Tuvalu notes that there is an urgent need to fully include persons with disabilities in national data gathering and statistics. The initial report also notes that whilst this was barely done in the past, more attention will be made to be more inclusive in the future work and activities. Additionally, the Ministry of Health has currently modified it's building and premises to be more accessible for persons with disabilities. It has also facilitated the provision of wheelchairs for persons with disabilities who need them.

78. Further the Tuvalu National Disability Coordinating Committee under s5(1) (d), (e) has as its core functions to: *(d) make recommendations on legislative and policy actions to be undertaken to ensure the effective implementation of the CRPD; (e) Coordinate the adoption of legislation and administrative measures to promote the human rights of Persons with Disabilities.*

79. The Government of Tuvalu through the Draft Tuvalu National Policy on Disability has identified 12 priority areas. These 12 areas have been identified after thorough consultations with persons with disabilities and relevant government stakeholders.[58] Important to note that the identified 12 key priorities will be progressively realised. The priority areas, have identified specific objectives and accompanying activity that will need to be undertaken to fulfil the enjoyment of the priority areas. In addition, the Draft Tuvalu National Disability Policy has an accompanying Implementation Plan. The implementation plan has identified activities under each key priority that will need to be implemented to allow and ensure that the rights of persons with disabilities are recognised. It also identifies key government department that will be working in partnership with Fusi Alofa to implement the identified activities.

80. The report notes that, in accordance with the *Falekaupule Act Schedule 3 Cap 4.08*, the Falekaupule (Assembly of Traditional Leaders), in conjunction with the Government, is to provide *for and grant sums of money towards the maintenance and welfare of children and young persons and of the aged, destitute or infirm*. The Government of Tuvalu will work with the relevant government ministry and department to ensure that the word disability is included in this clause of the mentioned Schedule.

N. Climate change[59]

81. Tuvalu continues to implement its NAPA to address the impacts of climate change. NAPA 1 Project took care of three adaptation projects that was prioritised by the people of

Tuvalu and that is the (i) Coastal Protection, (ii) Food Security, and (iii) Water Security. The NAPA 1 Project was funded by GEF with UNDP as the Implementing Agency. The NAPA 1 Project is now completed and closed. NAPA Project (NAPA 2) is funded by GEF with UNDP as the Implementing Agency. This project is focused on three key themes namely (i) strengthening Community Based Conservation Programmes on highly vulnerable nearshore fisheries, (ii) strengthening Community Disaster Preparedness and Response Potential and (iii) enhanced capacity of communities to access internal/external financing for community-based climate change adaptation through existing participatory planning processes. NAPA 2 is currently being implemented and is expected to finish by the end of 2018.

82. Partnerships developed with bilateral and multilateral partners, with a total of 33 active projects related to climate change and disaster risk reduction being implemented across government (as at January 2018). This includes NAPA2, Tuvalu Coastal Adaptation Project (Green Climate Fund), Institutional Strengthening for Pacific Island Countries to Adapt to Climate Change (USAID), Tuvalu Integrated Vulnerability Assessment (NAP Global Network), Strengthening Water Security in Vulnerable Island States (NZ Aid). In late 2017 the GEF has approved the PIF for a sub-regional project for Pacific LDCs on Health and Climate Change. This project will implement the last priority of adaptation priorities identified in Tuvalu NAPA.

83. EU-UNESCAP Pacific Climate Change and Migration Project implemented in Tuvalu (completed in December 2016). Building on from UNESCAP's project, GIZ is implementing the Sustainable Management of Human Mobility in the Context of Climate Change Project (November 2017–April 2020) which focuses on improving applied knowledge on climate-induced human mobility in the Pacific. Draft UN resolution on the rights of persons displaced by the impacts of climate change endorsed by the Pacific Island Leaders in September 2017. A regional platform for disaster displacement organised by the International Organisation for Migration in Suva, 14–16 February 2018. The platform deliberated on key terminologies such as 'migration' and 'displacement' in relation to climate change and negotiations took place on the UN Global Compact for Safe, Orderly and Regular Migration.

O. Laws relating to nationality[60]

84. The laws of Tuvalu provide for safeguards against statelessness. The birth of every child born in Tuvalu shall be registered by the registrar for the district in which the child was born by entering in a register kept for that district such particulars concerning the birth as may be prescribed: provided that where a living new-born child is found exposed and no information as to the place of birth is available, the birth shall be registered by the registrar for the district in which the child is found. (2) The following persons shall be qualified to give information concerning a birth, that is to say: (a) the father and mother of the child; (b) any person present at the birth; (c) any person occupying at the time of the birth any part of the house wherein the child was born and having knowledge of the child having been born in the house; (d) any medical practitioner or midwife in attendance after the birth and having personal knowledge of the birth having occurred; (e) any person having charge of the child.[61]

V. Achievements, best practices, challenges and constraints

85. The Government of Tuvalu informs the Human Rights Council of the significant progress made in relation to its obligations and commitment on human rights. Some of the more notable achievements include:

- Child Protection and Welfare Bill 2017;
- Policy for the Protection of all Children in Educational Institutions in Tuvalu;
- Completion of the 2nd, 3rd, 4th and 5th combined CRC National Report;

- Completion of the Initial report on the Convention on the Rights of Persons with Disabilities;
- Draft Tuvalu National Policy on Disability;
- National Action Plan on Human Rights 2016-2020;
- Family Protection and Domestic Violence Act 2014;
- Family Protection and Domestic Violence (Amendment) Act 2016;
- National Human Rights Institution Act 2017;
- Leadership (Amendment) Code 2017;
- Marriage (Amendment) Act 2016;
- Tobacco Control (Amendment) Act 2017;
- Penal Code (Amendment) 2016;
- Labour and Employment Relations Act 2017.

86. Additionally, of significance is the:

- Establishment of the Child Protection Desk;
- Creation of the Child Protection Manager;
- Establishment of the National Coordinating Committee on Children's Rights;
- Establishment of the Tuvalu National Disability Coordinating Committee; and
- Establishment of a Child Protection and School Safety Officer (Technical Adviser) to volunteer and to provide support to the Education Office (Safe Schools and Child Protection).

87. The Government of Tuvalu informs the Human Rights Council that central to the ongoing work on human rights realisation are challenges and constraints namely:

- Climate change;
- Lack of financial resource;
- Lack of technical resource;
- Competing national priorities;
- Geographically sparse out-islands;
- Unreliable vessels for consultation and awareness in the outer islands.

VI. Key national priorities and initiatives and commitments that the State concerned has undertaken and intends to undertake to overcome those challenges and constraints and improve human rights situations in the State

88. The government of Tuvalu uses the Te Kakeenga III[92] as the baseline for identifying national priorities and key commitment areas namely:

- Climate Change;
- Good Governance;
- Health and Social Development;
- Island Development;
- Private Sector Development;
- Education and Human Resources;
- Natural Resources;

- Infrastructure and support services;
- Environment;
- Migration and Urbanisation;
- Migration and urbanisation Ocean and Seas.

89. The Government of Tuvalu has also identified key priority areas that need additional attention. Listed below are some key area of concern that is being currently considered:

- National Human Rights Institution - human and technical resource;
- Legislative compliance review of national laws and policies in alignment with the Convention on the Rights of Persons with Disabilities;
- Endorsement of the Draft Tuvalu Policy on Disability;
- Completion and endorsement of the Draft Housing Policy.

VII. Expectations of the State concerned in terms of capacity-building and technical assistance and support received

90. The Government of Tuvalu acknowledges the ongoing and continuing support provided for by regional and international partners in the fulfilment of human rights obligations. To this end, the Government of Tuvalu welcomes the ongoing support of the UNICEF Pacific Regional Office, Office of the High Commissioner for Human Rights (OHCHR), Pacific Islands Forum Secretariat (PIFS), Secretariat of the Pacific Community (SPC), UN Women, International Labour Organisation, Integrated Water Resource Management, Pacific Adaption to Climate Change, United Nations Development Programme – Multi Country Office.

91. The Government of Tuvalu recognises and acknowledges the support from our donor partners namely: Asian Development Bank; Australian Department of Foreign Affairs and Trade (DFAT); Canada Fund for local Initiatives (CFLI); Commonwealth; European Union, Food and Agriculture Organisation; Forum Fisheries Agency; Global Environment Facility (GEF); Government of India; Pacific Media Assistance Scheme; Pacific regional Infrastructure Facility (PRIF); Republic of China Taiwan; Republic of Cuba; Republic of Korea; Republic of Turkey; Russian Federation; Secretariat of the Pacific Regional Environment Programme, New Zealand Aid Program (NZAID); NZAID-Pacific Island participation Fund.

VIII. Voluntary commitments

92. The Government of Tuvalu commits to continuing work on the implementation of the key priorities identified under the Te Kakeega III (National Strategy for Sustainable Development 2016–2020) Furthermore, Tuvalu commits to working with partners nationally, regionally and internationally to implement its human rights obligations.

IX. Conclusion

93. The Government of Tuvalu looks forward to the constructive dialogue with the members of the Council. It will continue to work towards the fulfilment of its human rights obligations with partners to fully realise human rights obligations and priorities.

94. The Government of Tuvalu calls on the international community to assist in the implementation of human rights norms and standards through the provision of technical and financial support.

Notes

[1] Memo 31/18 Tuvalu's Universal Periodic Review. Cabinet authorised the OAG to initiate preparation, recruitment of a Technical Adviser and drafting of the UPR Report.

[2] *Convention on the Rights of the Child (CRC)*, the *Convention on the Elimination of all forms of Discrimination against Women (CEDAW)* and the *Convention on the Rights of Persons with Disabilities (CRPD)*.

[3] The *Child Protection and Welfare Bill 2017* is the first law in Tuvalu to make comprehensive provision for issues related to the rights, protection and welfare of children in accordance with the principles and provisions of the UN Convention on the Rights of the Child (CRC). This new law will empower the government to take action to ensure that children are protected whenever necessary. It also guarantees that the laws of Tuvalu will be applied in the best interests of children.

[4] The *Policy for the Protection of Children in all Educational Institutions in Tuvalu*. This Policy provides a framework for the protection, identification, managing and reporting incidents of child abuse in schools and educational institutions and whenever school activities and programs are conducted or provided.

[5] The consequential amendments will be effective upon the passing the proposed Child Protection and Welfare Bill 2017.

[6] Is amended as follows: (a) by amending the title of the section to be "39. Offenders under the age of 18 years", and (b) by deleting the words "16 years" from subsections (1) and (6), and replacing them with the words "18 years".

[7] The Prisons Act [Cap 20.28] is amended as follows: (a) Section 3 is amended by: (i) deleting the definitions of "juvenile" and "young person", and (ii) inserting the following definition – **"child prisoner"** means any person under the age of 18 years who has been sentenced to serve a term of imprisonment. (b) Section 26A is inserted as follows: "**26A Treatment of child prisoners** (1) All child prisoners must be treated in accordance with the requirements of the *Child Protection and Welfare Bill 2017* during their time in custody. (2) In addition to the requirements under subsection (1), child prisoners must be given the following entitlements: (a) access to visits by their parents or guardian at any time during prescribed hours; (b) appropriate counselling, rehabilitation and other support services; (c) opportunities to continue their education through arrangements made between the Superintendent and the Ministry of Education.

[8] Section 5(c) of the Education (Compulsory Education) Order 1984 [Cap 30.05.4] is amended and replaced with the following: "(c) a child whose level of disability is assessed by a medical practitioner as resulting in there being no substantial benefit from schooling or further schooling".

[9] Section 3 of the Gaming and Lotteries Act [Cap 54.10] is amended by deleting subsection (3) and replacing it with the following: "(3) No gaming is to take place at which any person under the age of 18 years is included among the players".

[10] Cabinet decision M082-17.

[11] Cabinet Decision M241-17.

[12] Cabinet Decision M246-16.

[13] Cabinet Decision M288-16.

[14] Cabinet Decision M337-16.

[15] Cabinet Decision M356-16.

[16] Cabinet Decision M028-16.

[17] Cabinet Decision M067-15.

[18] Cabinet Decision M035-15.

[19] Cabinet Decision M031-14.

[20] Cabinet Decision M005-14.

[21] s38 Leadership Code Act 2008.

[22] Gender Affairs Division – AUD 93,100; Legal Services – AUD 31, 120; Public Utilities – AUD 28,400; Health – AUD 3,120,000; Natural Resources 53,000; Home Affairs and Rural Development – AUD 471,506 and Education, Youth and Sports AUD 237, 505.00.

[23] The Office of the Attorney General is the lead government agency that deals with all human rights issues and concerns in Tuvalu. The OAG is mandated to oversee all human rights related activities including treaty ratification, reporting and implementation. It is also responsible for ensuring that laws, regulations and policies are human rights compliance.

[24] MHARD is responsible for issues relating to persons with disabilities. Also has the mandate to oversee disability financial scheme and the Convention on the Rights of Persons with Disabilities. It is also mandated to coordinate and manage the affairs of the cabinet endorsed Tuvalu National Coordinating Committee on Disability.

[25] The Ministry of Education vision is to provide quality education for sustainable living for all. Its mission is to provide and sustain excellence in Education for all. MOE is also responsible for the

implementation of the Convention on the Rights of the Child. MOE is also mandated to coordinate and effectively manage the National Coordinating Committee on Children's Rights.

[26] Gender Affairs Department oversee gender related matters. Its mission is to strengthen mechanisms across Government Ministries and within other institutions that will contribute to gender equality and the full realisation of women's human rights. Their vision is to build a society where women and men are recognised as equal partners in all aspects of development, are protected from all forms of discrimination and violence, and can equally access and benefit from the growth and development of Tuvalu.

[27] Department for Youth deals with all youth related matters in Tuvalu. Its objective is to foster the spiritual, mental, physical and cultural development of youth of Tuvalu to enable them to be positive contributors to the national development of Tuvalu. The Department for Youth is also responsible for implementing the National Youth Policy.

[28] Purpose is to provide safety and protection of the people of Tuvalu. One of its key functions is to provide law and order and to maintain peace and security.

[29] The function of a People's Lawyer is to give, in Tuvalu, legal advice and representation. In the exercise of the functions conferred on him or her by or under this Act a People's Lawyer is not subject to the direction or control of any other person or authority. Peoples lawyer provide access to legal services and justice for the citizens of Tuvalu.

[30] Recommendations 82/1, 82/2, 82/3, 82/4, 82/5, 82/6, 82/7, 82/8, 82/9, 82/10, 82/11, 82/12.

[31] Labour and Employment Relations Act 2017, (b) Island Courts (Amendment) Act 2017, (c) Tobacco Control (Amendment)Act 2017, (d) Alcoholics Drinks Amendment Act 2017, (e) The National Human Rights Institution Act, (f) The Leadership Code (Amendment) Act 2017, (g) Marriage (Amendment) Act 2017 and (h) Family Protection and Domestic Violence Act 2014.

[32] Cabinet Decision - M067-12 International Criminal Court statute.

[33] Recommendations 82/13, 82/14, 82/15.

[34] It also guarantees that the laws of Tuvalu will be applied in the best interests of children. The proposed Bill will ensure that Tuvalu maintains good international standing for the way it treats and protects its children. In addition, the proposed Bill also states that any law which relates to the rights of children, or which provides for processes relevant to dealing with children in any manner and in any context, must be read and applied subject to the provisions of this proposed Bill, and in the event of any inconsistency between the provisions of this Bill and of any other law, the provisions of this Bill shall prevail.

[35] Recommendations 82/16, 82/17, 82/18.

[36] The primary functions of the National Human Rights Institution Act 2017 of Tuvalu are: (a) to advocate and promote respect for, and understanding and appreciation of, human rights in Tuvaluan society; and (b) to encourage the maintenance and development of harmonious relations between individuals and among the diverse groups in Tuvaluan society.

[37] Recommendation 82/20, 82/21.

[38] Recommendation 82/22.

[39] Recommendation 82/23, 82/24, 82/25, 82/26.

[40] Church Ministers in Tuvalu.

[41] Island Councils.

[42] Recommendation 82/27, 82/28.

[43] Recommendation 82/29, 82/30, 82/31, 82/32, 82/33, 83/34, 82/35, 82/36, 82/37, 82/38, 82/39, 82/40, 82/41, 82/42, 82/43, 82/44, 82/45, 82/46, 82/47, 82/48, 82/49, 82/50, 82/51, 82/52, 82/53, 82/54, 82/55, 82/56, 82/57.

[44] Cabinet submission - M062-17, Establishment of the Family Protection Fund.

[45] Right to be legally represented and the right to remain silent.

[46] The Labour and Employment Relations Act 2017 was passed by Parliament in October 2017.

[47] Of the Government Salary Structure.

[48] Labour and Employment Relations Act 2017.

[49] Section 22 of the Labour and Employment Relations Act 2017.

[50] This is an ongoing activity by the Government of Tuvalu. The White Ribbon campaign involves all sectors of the community and targets schools (both primary and secondary), and is inclusive of community leaders, church leaders, women groups, persons with disabilities, youths, non-government organisations, students including government.

[51] Recommendation 82/58.

[52] Recommendation 82/59.

[53] Sustainable Development Goals.

[54] Recommendation 82/60, 82/61, 82/62, 82/63, 82/64.

[55] Recommendations 82/66.

[56] For example, partly blind children are placed in the front of a class session to allow for them to fully

participate in learning.

[57] Falekaupule Act Section 15 Disqualification of voters (1) No person who – (a) is serving a sentence of imprisonment; (b) is certified to be insane or otherwise adjudged to be of unsound mind under any law for the time being in force in Tuvalu; or (c) is disqualified from registering as a voter or voting under any law for the time being in force in Tuvalu relating to offences connected with elections, shall be registered as a voter or, being registered, shall be entitled to vote in an election of a member of a Kaupule. (2) A voter shall not be entitled to have his name retained on the register of voters for any Falekaupule area if for a continuous period of 12 months he has ceased to be a person resident within such area or if he becomes disqualified for voting under subsection (1).

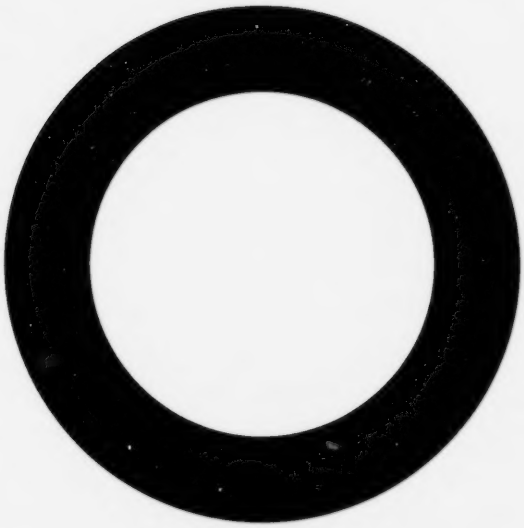
[58] *(1) awareness and advocacy; (2) education; (3) health; (4) accessibility; (5) employment and livelihood; (6) policy planning and legislation; (7) women, children, youth and elderly; (8) strengthening disabled persons org; (9) family life; (10) religion; (11) recreation and sports; (12) emergency and safety.*

[59] Recommendation 82/67, 82/68.

[60] Recommendation 82/69, 82/70.

[61] Births Deaths and Marriages Registration Act Section 9 CAP. 17.10.

[62] (National Strategy for Sustainable Development 2016-2020).



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Compilation on Tuvalu

Report of the Office of the United Nations High Commissioner for Human Rights

I. Background

1. The present report was prepared pursuant to Human Rights Council resolutions 5/1 and 16/21, taking into consideration the periodicity of the universal periodic review. It is a compilation of information contained in reports of treaty bodies and special procedures and other relevant United Nations documents, presented in a summarized manner owing to word-limit constraints.

II. Scope of international obligations and cooperation with international human rights mechanisms and bodies[1][2]

2. The United Nations country team noted that, during the second universal periodic review, Tuvalu had accepted the recommendation to increase efforts to swiftly ratify fundamental human rights treaties. However, that recommendation had yet to be implemented. The United Nations country team recommended that Tuvalu ratify the remaining major international human rights treaties.[3] The Committee on the Elimination of Discrimination against Women made a similar recommendation.[4] It encouraged Tuvalu to ratify the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women and to accept, as soon as possible, the amendment to article 20 (1) of the Convention concerning the meeting time of the Committee.[5] The Committee on the Rights of the Child made a similar recommendation and added that Tuvalu should ratify the Optional Protocols to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and on a communications procedure, the Optional Protocol to the Convention on the Rights of Persons with Disabilities and the 1993 Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption.[6]

3. Furthermore, the Committee on the Elimination of Discrimination against Women recommended that Tuvalu consider ratifying the fundamental conventions of the International Labour Organization, in particular the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), the Maternity Protection Convention (Revised), 1952 (No. 103), and the Workers with Family Responsibilities Convention, 1981 (No. 156).[7] The United Nations country team made a similar recommendation.[8]

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4. The United Nations Educational, Scientific and Cultural Organization (UNESCO) encouraged Tuvalu to ratify the Convention against Discrimination in Education (1960), the Convention concerning the Protection of the World Cultural and Natural Heritage (1972) and the Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005).[9] The United Nations country team made a similar recommendation.[10]

5. The United Nations country team noted that, in 2013, Tuvalu had extended a standing invitation to special procedures to visit the country. It encouraged Tuvalu to engage with mandate holders to explore the possibility of visits.[11]

6. The United Nations country team also noted that Tuvalu had met most of its reporting obligations with relevant treaty bodies. It stated that it remained committed to continue to provide necessary support to Tuvalu, including in the area of capacity enhancement.[12]

7. The United Nations country team reported that the cooperation between the Government of Tuvalu and the United Nations in the Pacific continued to be cordial and strong. It stated that Tuvalu, as a signatory of the United Nations Pacific Strategy 2018–2022, might benefit from technical cooperation and the expertise of the Office of the United Nations High Commissioner for Human Rights (OHCHR), United Nations Children's Fund (UNICEF), the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women) and the United Nations Development Programme (UNDP), to further strengthen its engagement with United Nations human rights mechanisms and fulfil its obligations under the international human rights instruments that it had ratified.[13]

III. National human rights framework[14]

8. The United Nations country team reported that, in 2016, Tuvalu had initiated a constitutional review through UNDP-led technical support in order to address a number of issues pertaining to freedom of religion, gender equality, the inclusion of marginalized populations and protection of the environment. That ongoing process might, however, encounter challenges, including sensitivities over political and religious diversity and ensuring broad and meaningful consultation with all Tuvalun citizens who were dispersed among nine islands.[15]

9. Prior to the constitutional review process, the Committee on the Elimination of Discrimination against Women had noted with concern that the Constitution failed to incorporate the principle of equality of women and men and to define and prohibit all forms of discrimination on the grounds of sex or gender, including direct and indirect discrimination, and cover acts by both public and private actors.[16] The Committee on the Rights of the Child had raised similar concern, adding that some discriminatory acts were permitted under the Constitution by the application of laws enacted prior to independence or undertaken during a state of emergency.[17] The Committee was deeply concerned that section 29 of the Constitution stipulated that the exercise of human rights might be restricted if it was deemed divisive, unsettling or offensive to the people or threatened the values and culture of Tuvalu.[18] UNESCO noted with concern that the right to education was not enshrined in the Constitution.[19]

10. The United Nations country team welcomed the adoption in 2016 of the Tuvalu Human Rights National Action Plan 2016–2020, the first of its kind in the Pacific. The National Action Plan captured the existing commitments of Tuvalu under the international human rights treaties to which it was a State party, in the framework of the universal periodic review and the Sustainable Development Goals. The National Action Plan was aimed at consolidating the Government's human rights commitments in ensuring a systematic and coordinated approach to delivery of its commitment and achieving other desired development outcomes in order to strengthen the realization of human rights in Tuvalu. However, the National Action Plan remained silent about the resources or funding required to implement the activities outlined and there was a lack of monitoring of its implementation, despite that role being assigned to the Office of the Ombudsman.[20]

11. The United Nations country team encouraged Tuvalu to consider establishing a national mechanism on reporting and follow-up, with a view to engaging with the United Nations human rights mechanisms in a constructive and systematic manner.[21]

12. The United Nations country team mentioned that Tuvalu had recently passed a bill to establish a national human rights institution. It recommended that Tuvalu expedite the establishment of the institution, in full compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).[22] The Committee on the Rights of the Child recommended that Tuvalu establish an independent and effective national human rights institution that was mandated to handle complaints, particularly relating to violations of the rights of the child.[23]

IV. Implementation of international human rights obligations, taking into account applicable international humanitarian law

A. Cross-cutting issues

1. Equality and non-discrimination[24]

13. The United Nations country team stated that sex-related discrimination still existed in the Penal Code of 1978, the Marriage Act (Cap. 29), the Falekaupule Act of 1997 and the Labour and Employment Act of 2017. For example, consensual same-sex relations between men were criminalized under the Penal Code with penalties of up to 5 years' imprisonment for "gross indecency", up to 7 years for "unnatural offences and indecent assault" and up to 14 years for "buggery". The United Nations country team encouraged Tuvalu to conduct a comprehensive review of its legislation and policies, with a clear time frame and targets, and to amend or repeal all discriminatory legislation in order to ensure compatibility with the principles of equality and non-discrimination, as enshrined in international human rights law.[25]

2. Development, the environmental, and business and human rights[26]

14. The United Nations country team stated that development priorities could be found in Te Kakeega III — the National Strategy for Sustainable Development 2016–2020 —, a blueprint for the Government's action to improve the quality of life of the people of Tuvalu. Although Te Kakeega III was written in terms of development, most of the aspirations in that key government document were rightly linked to human rights, including the rights to housing, employment, voting and participation in both national and local government. However, the United Nations country team stressed that the Government's action plans were awaiting full implementation.[27]

15. The Committee on the Elimination of Discrimination against Women called for the integration of a gender perspective in all efforts aimed at achieving the Millennium Development Goals and in the post-2015 development framework.[28]

16. The United Nations country team emphasized that Tuvalu, as a small, low-lying island country, was constantly challenged by many competing factors and priorities that could hamper the realization of fundamental human rights. One of the biggest threats faced by Tuvalu was climate change and its adverse impact on the basic rights of Tuvaluans.[29] The Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child shared those serious concerns.[30]

17. The United Nations country team recommended that Tuvalu periodically assess the impact of climate change and natural disasters, particularly on the enjoyment of human rights by the poor and low-income population and other social groups, and support them to be more resilient towards such disasters; and develop sector-based plans and programmes that fully integrated climate resilience with a priority focus on biodiversity, education, energy, fisheries, forestry, health, infrastructure, land, water and youth, while ensuring that stakeholders, including target groups, were consulted when designing such interventions.[31]

The Committee on the Elimination of Discrimination against Women recommended that Tuvalu, inter alia, ensure that a gender perspective was integrated into all sustainable development policies, as well as into disaster risk reduction, post-disaster management and climate change policies.[32]

B. Civil and political rights

1. Right to life, liberty and security of person[33]

18. The United Nations country team stated that there were no reports of abuse in the prison system and that detention facilities met minimum standards.[34]

19. The Committee on the Rights of the Child expressed concern that the Constitution and the Penal Code allowed parents and guardians to use corporal punishment to discipline children and that corporal punishment was still widely practised in homes and schools. In that regard, the Committee urged Tuvalu to undertake awareness-raising programmes, including campaigns, about the negative impact of corporal punishment on the psychological development of children, especially concerning their dignity, with a view to changing adult perceptions and societal attitudes towards corporal punishment, and to abolish physical punishment as a criminal sentence by the island courts.[35] The United Nations country team[36] and UNESCO[37] made similar observations. The United Nations country team added that the Tuvalu Human Rights National Action Plan was aimed at amending section 29 of the Education Act to prohibit corporal punishment in schools. The amendment had been made in October 2017 and was awaiting full implementation.[38]

2. Administration of justice, including impunity, and the rule of law[39]

20. The United Nations country team noted that the judiciary was independent and carried out fair trials. However, limited capacity in the prison could mean long waits in the legal system and restricted access to proper counsel.[40]

21. The United Nations country team reported that the Office of the People's Lawyer was the main agency providing legal aid, but it reportedly lacked financial and human resources to reach out to the needy, as well as a comprehensive and effective system for receiving complaints. Furthermore, there was no disaggregated data available on complaints filed by victims, including by sex, nor in relation to their outcomes.[41] It recommended that Tuvalu: (a) strengthen the justice system, including the Office of the People's Lawyer, by enhancing its human, financial and technical resources, deploying judges and legal practitioners to the outer islands, ensuring the provision of free legal aid to women without sufficient means to claim their rights, and continuing to provide adequate funding to the judiciary, including building its resources to allow the judiciary to expand its outreach and services especially on the outer islands; and (b) provide training to the resident and island magistrate on new and existing laws, especially focusing on the Domestic Violence Act and international human rights treaties.[42]

22. The Committee on the Elimination of Discrimination against Women welcomed the fact that the judiciary, in particular the Senior Magistrate and his court, visited the outer islands to hear pending cases. It recommended that Tuvalu establish specific remedies to provide redress for women in the justice system and raise public awareness of the importance of addressing violations of women's rights through judicial remedies. It also recommended that Tuvalu enhance women's awareness of their rights and the means to enforce them, including by strengthening cooperation with civil society organizations, in particular community-based women's associations.[43]

3. Fundamental freedoms and the right to participate in public and political life[44]

23. In addition to the above-mentioned concern about the Constitution, the Committee on the Rights of the Child was deeply concerned that Tuvalu had enacted the Religious Organizations Restriction Act of 2010, which had resulted in the placement of restrictions on the freedom of religion and left the registration of religious organizations to the discretion of the traditional assembly of elders (Falekaupule) on each island. The

Committee was also concerned that in practice freedom of religion was not respected in schools as guaranteed in the legislation.[45]

24. The United Nations country team noted that the Constitution provided for freedom of speech and freedom of the press, and that the Government generally respected those rights in practice. The Tuvalu Media Corporation was a public entity and operated the country's sole radio and television stations, as well as the biweekly newspaper *Tuvalu Echoes*. Human rights groups had reportedly criticized that entity for its limited coverage of politics and human rights issues, but there had been no allegations of censorship or political agendas in reporting according to the United Nations country team. Internet access was largely limited to the capital because of the high cost and connectivity challenges.[46]

25. UNESCO encouraged Tuvalu to begin the process of introducing a freedom of information law in accordance with international standards. It further encouraged Tuvalu to decriminalize defamation.[47]

26. The United Nations country team reported that, in Tuvalu, there were no formal political parties, although no law barred their formation. Candidates typically ran independently and aligned themselves based on geography, tribal loyalties, family ties and personalities. Intense personal and political rivalries frequently prompted new alliances, and no-confidence motions were often used as a tool to oust opponents.[48]

27. The United Nations country team stated that workers had the right to strike, organize unions and choose their own representatives for collective bargaining. With two thirds of the population engaged in subsistence farming and fishing, there was only one registered trade union (for merchant marine workers) — the Tuvalu Overseas Seafarers Union.[49]

28. UNESCO encouraged Tuvalu to fully implement the relevant provisions of the Convention for the Safeguarding of the Intangible Cultural Heritage (2003) that promoted access to and participation in cultural heritage and, as such, were conducive to implementing the right to take part in cultural life.[50]

4. Right to privacy and family life

29. The Committee on the Rights of the Child was concerned that the names of offenders who were under 18 had been published in court proceedings and that the Office of the Attorney General had no policy to prevent publicity and protect the privacy and identity of young offenders.[51]

C. Economic, social and cultural rights

1. Right to work and to just and favourable conditions of work

30. The United Nations country team reported that, thanks to technical assistance provided by the International Labour Organization Country Office for the Pacific Island Countries, a review of the Employment Act, the Industrial Code and the Trade Unions Act had been undertaken, on the basis of which the Tuvalu Labour and Employment Relations Act had been enacted in November 2017.[52]

31. The United Nations country team stated that around three quarters of the labour force worked in the informal economy, primarily subsistence farming and fishing. Underemployment, particularly of young people on the outer islands, had fuelled the increasing urbanization of Funafuti.[53]

2. Right to an adequate standard of living[54]

32. The United Nations country team noted that Tuvalu was classified as a least developed country, but had met the threshold for graduation based on its human development indicators and high per capita income. Nevertheless, poverty had increased in the previous decade, particularly in urban areas.[55] In that regard, the Committee on the Rights of the Child was concerned at the report that many elderly-headed households with children lived in poverty.[56]

33. The Committee was also concerned that children lived in overcrowded conditions in informal squatter settlements that had developed as a consequence of internal migration from the outer islands to Funafuti, and that they were exposed to higher risks of infectious and waterborne diseases.[57]

34. The United Nations country team stated that one of the key priority areas was urban management, particularly in dealing with land and waste management in the capital city. It also noted that there were no rivers or streams on the islands, and the groundwater supply was brackish and generally not safe for consumption. During periods of drought, water security was a critical health issue in Tuvalu.[58]

3. Right to health

35. The Committee on the Elimination of Discrimination against Women commended Tuvalu for improving access to health care for those on the outer islands by establishing health centres on all those islands with professional health personnel, including trained midwives, and for considerably reducing maternal mortality as a result of improved detection services regarding high-risk pregnancies.[59] However, the Committee was concerned that women, in particular on the outer islands, continued to experience difficulties in gaining access to affordable and adequate health care and, especially, that the health centres on the outer islands were not sufficiently equipped to attend to deliveries in the event of complications.[60] The United Nations country team raised similar concerns.[61]

36. The Committee on the Rights of the Child was concerned that the estimated under-5 mortality rate was still one of the highest in the Pacific region and that 6 in 10 children aged 6 to 69 months and a quarter of women aged 15 to 49 years were anaemic, with urban women twice as likely to be at risk of anaemia compared to rural women.[62]

37. The Committee on the Elimination of Discrimination against Women was concerned that there was a lack of preventive sexual and reproductive health services in Tuvalu, including age-appropriate school education on sexual and reproductive health and rights, and that the use of contraceptives by girls and boys was reportedly very low, resulting in a heightened risk of HIV/AIDS, sexually transmitted diseases and early pregnancy.[63] The Committee on the Rights of the Child raised similar concerns.[64]

38. The United Nations country team reported that it had worked with the Government to improve the capacity of nurses and midwives to deliver quality reproductive health care including emergency obstetrics services, and improve the screening of pregnant women, particularly on the outer islands. However, there was a need to broaden the coverage of such programmes and support so that vulnerable population groups could have access to the services offered.[65]

39. The Committee on the Elimination of Discrimination against Women was concerned that abortion was still criminalized under the Penal Code in cases of rape, incest, risk to the life or health of the pregnant woman or severe fetal impairment and that the prohibition might lead women to seek unsafe, illegal abortions, thereby endangering their life and health.[66]

40. The Committee on the Rights of the Child remained concerned that about 50 per cent of Tuvaluans aged 15 to 19 years were either overweight or obese due to unhealthy eating practices and were therefore at risk of non-communicable diseases. A total of 41.6 per cent of adolescents were reported to consume alcohol despite its prohibition by law.[67]

4. Right to education[68]

41. UNESCO noted that the national legal framework contained limited reference to the right to education. It recommended that Tuvalu adopt more comprehensive legal guarantees on the right to education in order to guarantee that right for all, without discrimination or exclusion.[69]

42. The Committee on the Rights of the Child commended Tuvalu for providing compulsory free education from ages 6 to 16, and for achieving near universal primary enrolment. The attendance rate of 98 per cent for primary school was also commended.[70]

However, the United Nations country team noted that students started dropping out in year 6 (age 10–11), with the majority dropping out in year 8.[71]

43. The Committee on the Rights of the Child remained concerned that extra fees and hidden costs, such as school uniforms, lunch and transportation, kept some children from families in a vulnerable situation from attending school and that the quality of education was deteriorating due to a lack of ongoing training for teachers, and outdated school facilities and teaching materials.[72] UNESCO encouraged Tuvalu to intensify its efforts to implement national priorities in education and to raise the quality of education.[73]

44. The United Nations country team reported that Tuvalu had allocated on average 25 per cent of its total budget to education, exclusive of donor contributions. However, the majority of the education budget had been allocated to salaries, leaving little for operations and school learning materials.[74] UNESCO made a similar observation.[75]

45. The Committee on the Elimination of Discrimination against Women called upon Tuvalu to eliminate traditional stereotypes and structural barriers that might deter girls from enrolling in traditionally male-dominated fields of study, such as science and technology, and step up efforts to provide girls with career counselling on non-traditional career paths.[76] The United Nations country team made a similar call.[77]

46. The Committee was concerned about the inadequate education infrastructure affecting girls in particular, including the lack of basic sanitary facilities, and about the dismissal of pregnant girls from school and the absence of re-entry policies after giving birth.[78] The United Nations country team and UNESCO echoed those concerns.[79]

D. Rights of specific persons or groups

1. Women[80]

47. The Committee on the Elimination of Discrimination against Women was concerned that, although it had been ratified in 1999, the Convention on the Elimination of All Forms of Discrimination against Women had not yet been fully incorporated into the Tuvalu national legal order, especially as international treaties needed to be incorporated into national law before they could be applied by the national courts. It called upon Tuvalu to proceed without delay with the full incorporation of the Convention into its national legal order.[81]

48. The Committee noted with appreciation that the Gender Affairs Department had been moved from the portfolio of the Minister of Home Affairs to that of the Prime Minister and given additional human and financial resources. Nevertheless, the Committee remained concerned that the Department continued to depend heavily on international partners for technical assistance and financial support and lacked the institutional authority, capacity and appropriate resources to effectively monitor and coordinate the implementation of the Convention on the Elimination of All Forms of Discrimination against Women and the National Gender Policy.[82]

49. The Committee was also concerned about persisting gender stereotypes, negative traditional values and patriarchal attitudes regarding the roles and responsibilities of women and men in society and in the family, which overemphasized women's roles as mothers and housewives, thereby preventing them from actively participating in all aspects of public life. It urged Tuvalu to adequately integrate principles of non-discrimination and equality of women and men into education policies, the national core curriculum and related documents, as well as into basic and continuing education for teachers and health-care professionals and other service providers.[83]

50. The Committee urged Tuvalu to amend or repeal all discriminatory provisions in the Native Lands Act and the Tuvalu Lands Code to ensure that women had equal rights to land ownership and land inheritance and to eliminate discriminatory customs and traditional practices that affected the full enjoyment of women's land and inheritance rights, including by ensuring that local customary leaders and magistrates in the Lands Court were trained to uphold women's land rights at the community level.[84]

51. The Committee remained concerned that, according to section 20 of the Native Lands Act, the custodial rights of a child born out of wedlock were automatically given to the father, if he accepted paternity, once the child reached 2 years of age.[85]

52. The Committee welcomed, inter alia, the adoption of the Family Protection and Domestic Violence Act of 2014. However, it was concerned about the persistence of violence against women, including domestic violence, and the insufficient information about its extent and prevalence; the fact that such violence appeared to be socially legitimized and accompanied by a culture of silence and impunity, owing to women's reluctance to report cases of violence out of fear of reprisal, stigmatization and inadequate response by the police; and the lack of a comprehensive framework for addressing all forms of violence against women, including domestic and sexual violence. The Committee urged Tuvalu to design and implement legislative and other comprehensive measures to prevent and address all forms of violence against women and girls, including domestic violence and sexual violence; ensure that women and girls who were victims of violence had access to effective means of redress and protection and that perpetrators were prosecuted and punished; and provide mandatory training for judges and prosecutors on the strict application of legal provisions criminalizing violence against women, and train police officers on gender-sensitive procedures to deal with victims of violence.[86] The United Nations country team echoed those concerns.[87]

53. The Committee was concerned about the absence of shelters and the limited availability of medical care, psychosocial counselling and legal assistance for victims of violence. It encouraged Tuvalu to establish shelters for women, including on the outer islands, provide adequate protection and assistance to women who were victims of violence and enhance cooperation with non-governmental organizations, in particular women's organizations, that were providing assistance and rehabilitation services to victims.[88] The United Nations country team raised similar concerns.[89]

54. The Committee was also concerned about the absence of provisions criminalizing marital rape in the Penal Code. It urged Tuvalu to amend the Penal Code and the Family Protection and Domestic Violence Act to define and criminalize marital rape.[90] The United Nations country team expressed similar concerns and added that one of the objectives of the National Human Rights Action Plan was to review the Penal Code to consider expanding the definition of rape to include marital rape and the use of objects and other instruments, and to sanction situations in which men and boys were raped. The objective had yet to be achieved.[91]

55. The Committee noted that, from 2012 to 2014, the number of women holding the position of Assistant Secretary in the Government had increased from 20 per cent to nearly 50 per cent. However, it remained concerned about the stark underrepresentation of women in political and public life, especially at the highest levels of decision-making; in local government, including decision-making bodies (Falekaupule) and island councils (Kaupule); in the judiciary; and in the diplomatic service. The Committee was concerned that systematic barriers, such as negative cultural attitudes, the lack of an adequate quota system, insufficient capacity-building for potential women candidates, limited financial resources and the lack of logistical support, impeded the equal participation of women in political life.[92] The United Nations country team echoed those concerns.[93]

2. Children[94]

56. The Committee on the Rights of the Child recommended that Tuvalu prepare a comprehensive policy on children (0 to 18 years), based on the principles and provisions of the Convention on the Rights of the Child. The Committee also recommended that Tuvalu develop a strategy based on the policy and allocate sufficient human, technical and financial resources for its implementation.[95]

57. The Committee was concerned that awareness-raising programmes on child rights were inconsistent and concentrated mostly on the capital island. It was also concerned that the Convention on the Rights of the Child was perceived by the public as an instrument that diminished parental rights to guide and discipline their children. The Committee stressed the importance of ensuring that all professionals working with and for children, in

particular law enforcement officials, teachers and health professionals, were adequately and systematically trained on the rights of the child.[96]

58. The Committee was further concerned that legislation did not make reference to the best interests of the child and that such interests were not taken into account as a primary consideration at all levels of decision-making affecting children by government institutions, courts, administrative authorities or legislative bodies.[97]

59. The Committee was concerned that not all births were registered in a timely manner and that the registration rate was far lower for children born on the outer islands than for children born on Funafuti.[98]

60. Both the Committee on the Rights of the Child and the Committee on the Elimination of Discrimination against Women remained concerned that the minimum legal age for marriage was 16 years. They urged Tuvalu to raise the minimum age of marriage to 18 years for girls and boys.[99]

61. The Committee on the Rights of the Child noted that Tuvalu had taken some legislative measures to address abuse and neglect of children, including the Police Powers and Duties Act of 2009 and the Family Protection and Domestic Violence Bill. However, it was concerned that the number of reports to the police of domestic violence against children was very low, despite its widespread prevalence in Tuvalu. The Committee was also concerned that no specialized rehabilitative services were available for child victims of abuse and neglect.[100]

62. The Committee noted that some legislative measures had been put in place to address sexual abuse of children. However, it was concerned that there were significant protection gaps, including the fact that legislation did not protect all children below 18 years; sexual assault was considered only in case of penile penetration and other aspects of sexual violence were not recognized as sexual assault; section 156 (5) of the Penal Code permitted a girl aged 15 years and above to be charged with the offence of incest if she was regarded as having consented to the act; sexual offences against boys were not legally recognized and there were no services to respond to the needs of young boys who were victims of sexual crimes; marital rape was not criminalized in law; mandatory prosecution and minimum sentences for sexual assault were lacking and bail was available to those charged with sexual assault; and no specific provisions prohibited child pornography. Furthermore, the Committee was concerned that women and girls were often coerced to accept apologies as an adequate response to resolve acts of violence.[101]

63. The Committee was concerned that the age of criminal liability was 10 years of age and no minimum age was set for the deprivation of liberty; that the Island Courts Act permitted the court to order a parent or guardian to cane a child and that the Penal Code stipulated life imprisonment for child offenders; and that there was no legal text regulating how the police should deal with juvenile offenders. The Committee urged Tuvalu to bring its juvenile justice system into full conformity with the relevant international standards.[102]

64. The United Nations country team stated that it had worked with the Tuvalu Police Force and Attorney General's Office to build understanding of child-sensitive justice procedures. The Attorney General's Office had reportedly been implementing the Child Protection Project funded by UNICEF. However, such capacity-building interventions had yet to yield results.[103]

3. Persons with disabilities[104]

65. While noting that the Tuvalu National Human Rights Action Plan recognized the rights of persons with disabilities and aimed at ensuring their access to health, education and employment, the United Nations country team recommended that Tuvalu domesticate the provisions of the Convention on the Rights of Persons with Disabilities, including through developing comprehensive legislation to advance the rights of persons with disabilities.[105]

66. The Committee on the Rights of the Child remained concerned that there were no comprehensive legislative and policy measures to protect the rights of children with disabilities, nor were there any reliable data or studies to identify children with disabilities

and their special needs, which could lead to policymaking. The Committee was also concerned that there was no system for the early detection of disabilities in children.[106]

4. Migrants, refugees, asylum seekers and internally displaced persons

67. The Committee on the Rights of the Child was concerned about the absence of laws, regulations, policies and programmes concerning children in migration situations in the context of natural disasters. It recommended that Tuvalu enact a law on migration that addressed all the special needs for the protection of children in migration situations.[107]

Notes

[1] Tables containing information on the scope of international obligations and cooperation with international human rights mechanisms and bodies for Tuvalu will be available at www.ohchr.org/EN/Countries/AsiaRegion/Pages/TVIndex.aspx.
[2] For relevant recommendations, see A/HRC/24/8, paras. 82.1–12, 82.25–28, 84.1–11 and 84.17.
[3] United Nations country team submission for the universal periodic review of Tuvalu, p. 1.
[4] See CEDAW/C/TUV/CO/3-4, para. 42.
[5] Ibid., para. 37.
[6] See CRC/C/TUV/CO/1, paras. 46 and 66.
[7] See CEDAW/C/TUV/CO/3-4, paras. 27–28.
[8] United Nations country team submission, p. 6.
[9] UNESCO submission for the universal periodic review of Tuvalu, pp. 5–6.
[10] United Nations country team submission, p. 6.
[11] Ibid., p. 3.
[12] Ibid., p. 1.
[13] Ibid., p. 3.
[14] For relevant recommendations, see A/HRC/24/8, paras. 82.12–18, 82.22–24, 84.12–16 and 84.21–22.
[15] United Nations country team submission, p. 2.
[16] See CEDAW/C/TUV/CO/3-4, paras. 11–12.
[17] See CRC/C/TUV/CO/1, para. 23.
[18] Ibid., para. 31.
[19] UNESCO submission, p. 1.
[20] United Nations country team submission, p. 2.
[21] Ibid., p. 3.
[22] Ibid.
[23] See CRC/C/TUV/CO/1, paras. 17–18.
[24] For relevant recommendations, see A/HRC/24/8, paras. 84.18–20.
[25] United Nations country team submission, pp. 4–5.
[26] For relevant recommendations, see A/HRC/24/8, paras. 82.19 and 82.67–82.68.
[27] United Nations country team submission, p. 8.
[28] See CEDAW/C/TUV/CO/3-4, para. 39.
[29] United Nations country team submission, p. 12.
[30] See CEDAW/C/TUV/CO/3-4, para. 31; and CRC/C/TUV/CO/1, para. 55.
[31] United Nations country team submission, p. 13.
[32] See CEDAW/C/TUV/CO/3-4, para. 32.
[33] For relevant recommendations, see A/HRC/24/8, paras. 82.53–54 and 84.23–24.
[34] United Nations country team submission, p. 7.
[35] See CRC/C/TUV/CO/1, paras. 35–36.
[36] United Nations country team submission, p. 10.
[37] UNESCO submission, p. 5.
[38] United Nations country team submission, p. 10.
[39] For the relevant recommendation, see A/HRC/24/8, para. 82.55.
[40] United Nations country team submission, p. 7.
[41] Ibid.
[42] Ibid.
[43] See CEDAW/C/TUV/CO/3-4, paras. 15–16.
[44] For relevant recommendations, see A/HRC/24/8, paras. 82.57–58 and 84.25–27.
[45] See CRC/C/TUV/CO/1, para. 31.
[46] Ibid.

[47] UNESCO submission, p. 5.
[48] United Nations country team submission, p. 6.
[49] Ibid.
[50] UNESCO submission, p. 5.
[51] See CRC/C/TUV/CO/1, paras. 33–34.
[52] United Nations country team submission, p. 4.
[53] Ibid., p. 8.
[54] For relevant recommendations, see A/HRC/24/8, paras. 82.59–64.
[55] United Nations country team submission, p. 8.
[56] See CRC/C/TUV/CO/1, para. 57.
[57] Ibid.
[58] United Nations country team submission, p. 9.
[59] See CEDAW/C/TUV/CO/3-4, para. 29.
[60] Ibid., paras. 29–30.
[61] United Nations country team submission, p. 9.
[62] See CRC/C/TUV/CO/1, paras. 49–50.
[63] See CEDAW/C/TUV/CO/3-4, paras. 29–30.
[64] See CRC/C/TUV/CO/1, paras. 51–52.
[65] United Nations country team submission, p. 9.
[66] See CEDAW/C/TUV/CO/3-4, paras. 29–30.
[67] See CRC/C/TUV/CO/1, paras. 51–52.
[68] For the relevant recommendation, see A/HRC/24/8, para. 82.65.
[69] UNESCO submission, p. 3.
[70] See CRC/C/TUV/CO/1, para. 59.
[71] United Nations country team submission, p. 10.
[72] See CRC/C/TUV/CO/1, para. 59.
[73] UNESCO submission, p. 5.
[74] United Nations country team submission, p. 11.
[75] UNESCO submission, pp. 4–5.
[76] See CEDAW/C/TUV/CO/3-4, paras. 25–26.
[77] United Nations country team submission, p. 10.
[78] See CEDAW/C/TUV/CO/3-4, paras. 25–26.
[79] United Nations country team submission, p. 11; UNESCO submission, p. 4.
[80] For relevant recommendations, see A/HRC/24/8, paras. 82.20, 82.29–52 and 82.56.
[81] See CEDAW/C/TUV/CO/3-4, paras. 9–10.
[82] Ibid., para. 17.
[83] Ibid., paras. 19–20.
[84] Ibid., paras. 33–34. See also CRC/C/TUV/CO/1, para. 23.
[85] See CEDAW/C/TUV/CO/3-4, paras. 33–34; and CRC/C/TUV/CO/1, para. 23.
[86] See CEDAW/C/TUV/CO/3-4, paras. 21–22.
[87] United Nations country team submission, p. 5–6.
[88] See CEDAW/C/TUV/CO/3-4, paras. 21–22.
[89] United Nations country team submission, p. 5.
[90] See CEDAW/C/TUV/CO/3-4, paras. 21–22.
[91] United Nations country team submission, p. 5.
[92] See CEDAW/C/TUV/CO/3-4, para. 23.
[93] United Nations country team submission, p. 7.
[94] For the relevant recommendation, see A/HRC/24/8, para. 82.21.
[95] See CRC/C/TUV/CO/1, para. 11.
[96] Ibid., paras. 19–20.
[97] Ibid., para. 25.
[98] Ibid., para. 29.
[99] Ibid., paras. 21–22. See also CEDAW/C/TUV/CO/3-4, paras. 33–34.
[100] See CRC/C/TUV/CO/1, para. 37.
[101] Ibid., paras. 39–41.
[102] Ibid., paras. 62–63.
[103] United Nations country team submission, p. 7.
[104] For the relevant recommendation, see A/HRC/24/8, para. 82.66.
[105] United Nations country team submission, p. 12.
[106] See CRC/C/TUV/CO/1, para. 47.
[107] Ibid., paras. 64–65.